

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
EASTERN DIVISION

EARLENE HENNINGER,)	
)	
Plaintiff,)	No. 13cv2039 EJM
vs.)	
)	
CAROLYN W. COLVIN,)	ORDER
ACTING COMMISSIONER OF)	
SOCIAL SECURITY,)	
Defendant.)	

Plaintiff brings this action seeking judicial review of the Commissioner's denial of her application for disability benefits under the Social Security Act. Briefing concluded January 9, 2014. The court has jurisdiction pursuant to 42 USC §405(g). Reversed and remanded for further consideration.

[R]eview of the agency decision is limited to whether there is substantial evidence on the record as a whole to support the [Commissioner's] decision... Substantial evidence is less than a preponderance, but enough so that a reasonable mind might find it adequate to support the conclusion.

Robinson v. Sullivan, 956 F.2d 836, 838 (8th Cir. 1992).

Plaintiff claims disability due to diabetes, diabetic nephropathy, obesity and depression. She claims the ALJ failed to give sufficient, controlling weight to the testimony of the treating and examining psychiatrist, Dr. M.A. Chowdhry. Dr. Chowdhry, of the Black Hawk-Grundy Medical Health Center, examined plaintiff nine times, and opined that Ms. Henninger had disabling limitations in his response to mental impairment interrogatories on October 14, 2011.

A treating physician's opinion is entitled to great weight, and even controlling weight, unless the weight of the record is inconsistent with it. Strongson v. Barnhart, 361 F.3d 1066 (8th Cir. 2004). See also 20 C.F.R. 404. The record in this case is consistent with Dr.

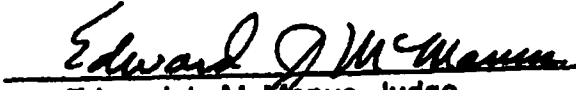
Chowdhry's opinion. Defendant defends the ALJ's weightings because she claims that "the doctor apparently relied quite heavily on the subjective report of symptoms and limitations provided by the claimant, and seemed to uncritically accept most as true." (Tr. 20). Yet the record shows that Dr. Chowdhry did challenge plaintiff's assertions on occasion; when he noted medication management sessions indicated severe depression and anxiety. (Tr. 539). Further, the ALJ fails to address even one instance where Dr. Chowdhry's opinion is inconsistent with his extensive treatment notes. The ALJ's reasons for disregarding the opinion of the sole treating and examining psychiatrist are insufficient here.

It is therefore

ORDERED

Reversed and remanded for further consideration in accordance with this opinion.

February 20, 2014


Edward J. McManus, Judge
UNITED STATES DISTRICT COURT